

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. CR-12-190-C
)	
BRIAN LINDELL HARDRICK,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

Defendant has filed a Motion seeking early compassionate release. In support, Defendant notes that in early September 2020 he tested positive for COVID-19. Defendant notes that following that positive test, he has had severe nausea and vomiting. Defendant notes that he is scheduled for release in October of 2021 and requests the Court order earlier release. Plaintiff has filed a Response to the Motion and the matter is now at issue.

18 U.S.C. § 3582(c)(1)(A) imposes three criteria to be considered when addressing a request for compassionate relief: (1) filing requirements; (2) extraordinary and compelling reasons; and (3) that the reduction is consistent with the 18 U.S.C. § 3553 factors. As Plaintiff notes, it is unclear whether Defendant has met the required step of exhausting administrative remedies. Section 3582(c)(1)(A) requires an individual seeking relief to first file a request with the warden at the facility of incarceration. While Defendant did seek relief, it appears that action took place before his physical symptoms arose. It is unnecessary to resolve that issue as Defendant's request clearly fails to meet

the second criteria. As Plaintiff notes, Defendant's medical records do not reflect that he has any of the medical conditions that place him in the risk category as defined by the CDC. Indeed, more recent medical records reflect that Defendant has recovered from COVID-19 and that his nausea and vomiting are now resolved. Thus, Defendant has failed to demonstrate extraordinary and compelling reasons warranting early release.

For the reasons set forth herein, Defendant's Motion seeking compassionate relief (Dkt. No. 49) is DENIED.

IT IS SO ORDERED this 13th day of October, 2020.


ROBIN J. CAUTHRON
United States District Judge